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CHAPTER 4

ACQUISITION POLICIES AND PROCEDURES

4.01 ACQUISITION POLICIES AND PROCEDURES - GENERAL

Authority for the acquisition and disposition of real property required for highway purposes is established and governed by statute 605 ILCS 5/4-501 to 5/4-511 inclusive. Eminent Domain is utilized to accomplish such acquisition through court action in the event an agreement cannot be reached with the property owner (735 ILCS 5/7-101 to 5/7-129 inclusive).

4.02 INTEREST TO BE ACQUIRED

The department may acquire the fee simple title, or such lesser interest as may be desired, to any land, rights or other property necessary for highway purposes by purchase or through eminent domain proceedings. Except in those instances that involve contaminated properties and other very unusual cases, fee title is acquired to right of way within the proposed highway right of way lines on all routes. For any departmentally approved acquisition of contaminated property a dedication for highway purpose (LA 408I and LA 408J) shall be obtained rather than fee simple title (see Chapter 10). Should condemnation be required for a contaminated parcel, the acquisition will be termed a perpetual easement.

Permanent easements are obtained outside the proposed highway right of way lines to cover the construction and/or installation of appurtenant highway facilities of a permanent nature. Installation of an outfall storm sewer, rip-rapping of stream channels, or channel changes are examples where future entry for maintenance or reconstruction purposes would necessitate a permanent easement. The acquisition of permanent easements should be accomplished in the same manner as for a fee taking with respect to appraisal and acquisition requirements.

Temporary construction easements or temporary use permits are also obtained outside the proposed highway right of way lines to perform various types of work incidental to construction of the highway improvement project. Because of distinct differences between a temporary construction easement and a temporary use permit, the type of work to be performed will determine which is to be used.

Temporary construction easements (LA 408M) are grants of an estate or interest in the land and as such are irrevocable. It is strongly recommended that temporary easements be recorded so as to run with the sale of the land. Acquisition of temporary construction easements should be accomplished in the same manner as the acquisition of a fee taking or a permanent easement with respect to appraisal and acquisition requirements. Temporary construction easements should always be obtained for such things as detour roads, borrow pits, removal of remainders of buildings situated partially on acquired right of way, channel changes requiring no future maintenance, etc., where the specified use is essential to completion of construction of the proposed improvement.

The term "temporary use permit" (LA 408M1), is used to describe a license which, with respect to real property, is a permission given the department to do a particular act or series of acts on the land of another without possessing any estate or interest in the land. A license with respect to real property does not generally run with the land and may be terminated. “Temporary use permits” should not be recorded. Consequently, the acquisition of temporary use permits should be confined to those areas of construction such as for sloping of lawns, extending back slopes beyond the proposed highway right of way lines, or reconstruction of driveways, where (1) a nominal amount of money is involved, (2) the probability of termination is minimal, and (3) the effect of termination is acceptable, (i.e., termination would not jeopardize completion of the highway improvement). An affidavit or receipt is not required and the warrant requisition must contain a statement “that title to the land subject to the easement or permit has

been examined by the district, the instrument has been executed by all necessary parties and, the payees have certified that they are entitled to the compensation."

Although located outside or beyond the proposed highway right of way lines, all easements or permits are considered as right of way parcels and are to be reported as "right of way" required for construction of a project for purposes of obtaining authorization to advertise the project for letting.

4.03 FACTORS WHICH MAY AFFECT EXECUTION AND OWNERSHIP

Prior to the initial contact by the negotiator, a thorough study must be made of the title requirements in order to expedite the acquisition process and to insure a proper conveyance of the interest sought. In this connection it should be noted that Illinois law requires any legal instruments prepared in Illinois, including deeds and other instruments relating to real estate, be prepared by or under the supervision of a licensed Illinois attorney (705 ILCS 205/1).

Consequently, a determination will be made as to (1) the instruments needed to convey the interest sought and the form thereof, (2) the signatures required and the form thereof, and (3) what other instruments will have to be executed or what action taken to obtain good title.

It is impractical to list all of the factors affecting the execution and ownership; however, those normally encountered will be discussed.

4.03-1 OWNERS

All instruments of conveyance must recite the full consideration which includes the value attributed to damages to the remainder. The state of Illinois does not accept less than a warranty deed when acquiring fee title except acquisitions from a railroad, public utility, trust or contract buyer. In these cases a quitclaim deed is acceptable provided the granting clause contains "after acquired title" language. This after acquired title clause may read as follows:

> "all the existing legal and equitable rights of the Grantor in the premises described herein and shall extend to any after acquired title in the described premises."

The statutes require warranty deeds, quitclaim deeds and mortgages to have the names of the parties typed or printed below the signatures. A blank space of 3x5 inches shall also be on the form for use by the recorder (55 ILCS 5/3-5018).

If the grantor conveys under a form of name different from that under which title was acquired, such disparity must be accounted for in (1) the granting clause, (2) the signature block, and (3) acknowledgment of the instrument, by showing both the name under which the grantor presently is conveying as well as that under which title was acquired. The grantor should be identified in the same manner in all three places where the grantor is identified in the deed. The following typical grantor names illustrate this:

- Albert J. Doe, AKA (also known as) A. John Doe, and Betty Doe, his wife - Other variations of the AKA abbreviation are FKA (formerly known as) and NKA (now known as)
- Mabel Smith, who acquired title as Mabel Doe, and Richard Smith, wife and husband
- Elsie Davis, a widow and surviving joint tenant of Michael Davis, deceased
- Button Company, an Illinois corporation, successor to Zipper, Inc., a Missouri corporation, qualified to do business in Illinois

The legal age for conveyance purposes is 18.

4.03-2 MARITAL STATUS

It is essential to disclose in the granting clause and the acknowledgment the correct legal marital status of all grantors. The correct marital status in Illinois is disclosed by the use of the words, "a single person, never married; widow; widower; husband and wife; divorced and not remarried" as appropriate. Spouses of title holding grantors must execute the instruments if the property is a homestead. If the "property is not a homestead," said instrument should so state immediately after the legal description. Determining whether or not the property is a homestead is often difficult and the safe procedure is to obtain the signature of the non-title holding spouse of the grantor even though an affidavit indicating that there is no homestead may be acceptable.

4.03-3 DIVORCED PERSONS

When an acquisition involves divorced individuals, the possibility of the property being considered a homestead, as described in Section 4.03-2, should be covered as well as examination of the court's dissolution of marriage decree.

4.03-4 JOINT TENANCY OR TENANCY IN COMMON

If a man holds title to property solely in his own name, and his wife dies, the children do not thereby become heirs, and the title remains in the husband. This is also true if the wife holds title to property solely in her own name. Sometimes property is held by owners, such as a wife and husband, as joint tenants, in which case, upon the death of either owner, the surviving spouse or other owners become the sole owner. This condition exists if the record title is held as follows: "John Jones and Mary Jones, his wife, as joint tenants and not as tenants in common." Under Cooper v. Martin (1923) 308 Illinois 224, it was held that the exact language of the statute (765 ILCS 1005/1) is not necessary so long as a clear intention to create a joint tenancy is indicated. If the property is owned by John Jones and Mary Jones, his wife, then each owns an undivided one-half interest as tenants in common, and upon the death of either, that half descends to the deceased spouse's heirs unless devised to others by will. Whether title is held in "joint tenancy" or "tenancy in common," all living title holders must be signatories. If one owner has died, the nature of the tenancy must be determined.

4.03-5 ESTATES

When an acquisition involves land held by a decedent’s estate, a copy of the decedent’s last will and testament, and a copy of the court order appointing the personal representative for the estate, subject to probate, must be obtained.

When a court has jurisdiction over the estate, court approval may be required for any sale of property. The will may grant the executor the power of sale. A representative, in their capacity as such, executes an Executor’s Deed (LA 408Z and LA 408Z-1) conveying the property to the state. If independent administration has been ordered, the personal representative can generally convey real property without further court order.

The will must be examined to determine the disposition of the property. The surviving spouse remains an interested party. The devisees also receive their interest as of the moment of death but subject to debts, taxes, and costs of administration. There is a period, after the will is filed for probate, for the filing of claims and to contest the will; and a period, after the will is filed for probate, for the surviving spouse to renounce the will and take the statutory share. A title company may require additional documentation to waive potential claims arising in this area.

Open estates are subject to federal and state estate taxes. These are interests which must be satisfied to clear title. Sometimes an affidavit stating that the personal property has a value which is sufficient to meet all claims will be satisfactory to the title insurance company to waive these obligations.

For guardianship (the estates of disabled adults or of minors), court approval of a conveyance is always necessary. In such cases, you should obtain a copy of the court order appointing the guardian, and you should be furnished with a copy of the court order approving the conveyance in addition to the conveyance documents.

4.03-6 CONDOMINIUM PROPERTY

The approval of title in condominium acquisitions will be on a case-by-case basis and will require close coordination with the Office of the Attorney General as well as the title company.

There will be cases when the Attorney General will approve title without a formal title commitment. A letter from the title company will be required which states that their search of the records indicates that the property in question is held in the name of a specific condominium association and that the title company will insure after conveyance by the board. With this letter, the title company will also provide the district with a copy of the Declaration of Condominium Ownership. From this information the district will be able to determine whom to contact to discuss and get copies of the bylaws that describe the power, authority, and structure of the appropriate board responsibility for conducting the business of the condominium association.

It is important that the title company know exactly the size and location of land taken from the condominium property. This will enable them to determine possible easements, liens, or mortgages that are affected by our acquisition. We will expect the title company to provide this information from the condominium plat recorded with the declaration. This information will be provided in letter form to the district. Since we will have no title commitment to rely on, our standard “Affidavit of Title” will need to be modified to also address any encumbrances that are and are not of record.

Along with the appropriately executed conveyance documents and our standard supporting material, an affidavit will have to be obtained that indicates the identity of each board member and certifies that their tenure as officers or agents is current.

We will also require a resolution of the appropriate board members indicating the conveyance has been approved in accordance with the bylaws of the condominium.

It should be noted that if the taking includes any interest of a specific owner of a condominium outside the common areas, a formal commitment will be required and those interests will need to be acquired from the owner. Condemnation actions involving condominium ownership will also require a title commitment.

4.03-7 LIMITED LIABILITY COMPANY

Since January 1, 1994, Illinois has allowed the creation of limited liability companies (LLC) (805 ILCS 180/1-5 et seq).

A Limited Liability Company is authorized to own and sell real property and to elect a manager under 805 ILCS 180/1-3(3) (4) & (10). A Limited Liability Company has articles of organization which specify the management of the LLC (805 ILCS 180/5-5(4) & (5)). An operating agreement can allow the appointment of a manager and define his authority (805 ILCS 180/15-1, 15-5). An LLC is formed by filing the articles of organization with the Secretary of State (805 ILCS 180/5-40). The act requires the filing of annual reports with the Secretary of State (805 ILCS 180/50-1).

The required documents are:

- A warranty deed (LA 408D1 or LA 408D2) signed on behalf of the LLC by the person or persons designated in the article of organization. The corporate deed form may be modified.

- Copies of the article of organization and amendments - If the articles of organization do not provide for property sales, the operating agreement may also be required.

- If the articles of organization or operating agreement show interests held by a corporation, partnership, or trust, then a disclosure should be requested until you know the names of individuals owning the interest in the entity involved, or can verify that the ultimate owner is a publicly-traded corporation in which no person is entitled to more than 7 1/2% of the total distributable income (LA 40315B).

- Some indication of good standing from the Secretary of State

- All other documents normally required (receipt, affidavit, tenants releases, etc.)

4.03-8 CORPORATE PROPERTY

Real property owned by corporations is usually conveyed by one or more designated officials of the corporation, such as the president or vice president, after approval by the board of directors; and, the instrument is attested to by the secretary of such corporation. In these cases, the corporate notary acknowledgment must be used. A copy of the duly adopted resolution of the board of directors authorizing the conveyance, certified by the secretary or assistant secretary of the corporation with the corporate seal affixed, in a form similar to LA 4038, must be submitted to (CBLA) with the Warrant Requisition.

Municipalities (cities and villages) are to indicate the vote either by submitting a certified copy of the minutes or by having the results of the vote indicated in the resolution, so it may be determined the vote passed by a 2/3 majority of those elected officials in office as required by 50 ILCS 605/4.

Townships are to indicate the vote either by submitting a certified copy of the minutes or by having the results of the vote indicated in the resolution, so it may be determined that the vote passed by a majority vote of electors present and voting at the township meeting, as required by 60 ILCS 1/35-40. An elector is a person registered to vote within the township no less than 28 days before the date of the annual or special meeting when the vote was conducted. Each township's deed should mention the statutory cite of "60 ILCS 1/35-40."

Counties are to indicate the vote either by submitting a certified copy of the minutes or by having the results of the vote indicated in the resolution so it may be determined that the vote passed by a majority of the county board members present (majority of a quorum) at the county board meeting, as required by 55 ILCS 5/2-1005. Each county's deed should mention the statutory cite of "55 ILCS 5/2-1005.2."

Since a policy of insurance is to be obtained covering the title, the insurer may also want a certified copy of the resolution and/or want the same recorded. It is important that the corporate name be shown accurately and completely and that the corporate seal is affixed to the instrument of conveyance (LA 4038). If corporate property has been sold on a contract for deed, it will be necessary to secure a quitclaim deed from the contract purchaser.

Some of the larger corporations have designated various individuals to convey. In the event such a designation is used, it must be certified by the secretary that it is still in effect and that the officers designated therein are authorized to convey, with the corporate seal affixed to the certification.

Title evidence often refers to a corporation's name followed by a state reference such as “a Nevada Corporation." It should be noted that when title evidence makes such a reference, then the instruments of conveyance must describe the corporation in the same manner.

An Affidavit of Title (LA 4091A) is also required from corporations to protect the state from exclusions in the title policy and to obtain the identity of every shareholder who is entitled to receive more than 7 1/2% of the total distributable income of any corporation having an interest in the property. 50 ILCS 105/3.1. (Disclosure of the corporate ownership interest can also be obtained by using LA 40315B and LA 40315C.)

Further, if the initial disclosures, or subsequent disclosures at other levels, show interests held by another corporation, partnership, or trust, then further disclosures should be requested until you know the names of individuals owning the interest in the entity involved, or can verify that the ultimate owner is a publicly-traded corporation in which no person is entitled to more than 7 1/2% of the total distributable income (LA 40315A, LA 40315B or LA 40315C).

4.03-9 PARTNERSHIPS

General

Instruments used to convey real property interests of partnerships must recite in the caption, "_____, and _____, doing business as _____" and the instrument must be executed by all partners. The Partnership Act, 805 ILCS 205/8 & 205/10, permits an interest in real property to be taken in the partnership name, and this will show in the commitment for title insurance. If this occurs, the grantor may be described as "..., a general partnership consisting of _____ and _____." Again all partners must sign the deed. The "partnership" is paid any consideration due. To be sure all appropriate partners have executed conveyance instruments, a copy of the partnership agreement will need to be secured.

Limited

Illinois has a Revised Uniform Limited Partnership Act, 805 ILCS 210/100 et. seq. Basic information on Illinois limited partnerships must be filed in the Secretary of State's office in Chicago and Springfield. A limited partnership will have one or more general partners who will have the power to control partnership business including the right to sell partnership property. A deed will normally read "Jones Bros., L.P. or Jones Bros., an Illinois limited partnership by John Jones its general partner." A copy of the partnership agreement will be needed to show authority of the general partner. Limited partners would not sign the deed and will normally not be required to consent to a conveyance.

If the general or limited partnership agreement shows interests held by a corporation, partnership, or trust, than a disclosure should be requested until you know the names of individuals owning the interest in the entity involved, or can verify that the ultimate owner is a publicly-traded corporation in which no person is entitled to more than 7 1/2% of the total distributable income (LA 40315B).

4.03-10 CHURCH PROPERTY

Church property is usually held in the name of the board of trustees. However, there are exceptions when it will be necessary to determine how the church acquired title. Ordinarily, a vote of approval by the congregation or by the official board must precede action by the board of trustees. The church by-laws will probably prescribe the proper procedure for conveyances and must be obtained in order that a review can be made to determine if the proper procedure has been followed. Property owned by the Roman Catholic Church is normally conveyed by the Bishop of the Diocese in which the property is located.

4.03-11 SCHOOL PROPERTY

The trustees of schools or school officials having legal title to the land with the consent of the school board as officially indicated by the adopted resolution, can sell and convey to the state land required for highway purposes (105 ILCS 5/5-29). In Special Charter Districts, such as Springfield, the Board of Education is given all power of the Trustees of Schools and conveys under those powers (105 ILCS 5/32-4.8).

4.03-12 POWER OF ATTORNEY

A landowner may give a substitute individual the authority to sell and convey the landowner's property. This substitute is called the attorney in fact but need not be an attorney at law. Often the attorney in fact is a family member.

The landowner must first sign and deliver to their attorney in fact a written instrument, called a "power of attorney," authorizing such attorney to sell and convey the land in question. Such an instrument must be as formal as the deed itself, and the other requirements relating to deeds must be observed, including acknowledgment and recording information dated prior to the execution of the deed. 755 ILCS 45/3-3 requires that an additional witness sign the power of attorney along with the principal. The effective date of this requirement is June 9, 2000. The deed must name the landowner, not the attorney in fact, as the grantor. The name signed to the deed should be that of the landowner, as follows:

"John Doe by Richard Roe his Attorney in Fact" with the same language typed or printed below the signature, and so acknowledged.

The grantor must be alive on the date of the delivery of the deed, since death of the grantor automatically terminates the power of attorney. Insanity of the grantor may have the same result.

755 ILCS 45/2-7.5 amends the act to create a new section that applies to an agent acting for a principal who is incapacitated. A principal is considered incapacitated if he or she is under a legal disability as defined in Section 11a-2 of the Probate Act. A principal is also considered incapacitated if (1) a physician finds that the principal lacks decision-making capacity; (2) the physician has made a written record of this determination and has signed the written record within 90 days after an examination; and (3) the written record has been delivered to the agent. The agent may rely conclusively on that written record.

Since the landowner ordinarily has the power to terminate the agency at any time and take away the attorney's power to execute deeds on their behalf, it should be established by a sworn statement that the agency actually had not been terminated or revoked at the date of the delivery of the deed.

4.03-13 REQUIRED SIGNATURES - ACKNOWLEDGMENTS - RELEASES

Signatures and acknowledgments must be in complete agreement with the names of the grantors or other parties appearing in the caption or the body of the instrument. The signatures of tenants and lessees must also be secured to the required releases. In cases involving tenant-owned improvements the instrument of conveyance to be obtained from the tenant owner will be a quitclaim deed. In the case of an advertising sign the conveyance document can be a Lessee's Release of Lease and Agreement to Vacate Advertising Sign (LA 420A) or Lessee's Release of Lease and Bill of Sale for Advertising Sign or Billboard (LA 420B). Releases will be obtained for all encumbrances, liens, and judgments of record, and releases or subordination agreements obtained for miscellaneous easements. The interest of tax purchasers must be acquired. Both the seller and the buyer must convey their respective interest in property being sold and purchased under a bond or contract for deed. The deed should be prepared as warranty deed for signature by the fee owners. A quitclaim deed (LA 408W) with the after acquired title clause will be accepted from the contract buyer.

See Section 4.03-17. With certain deeds, such as trustee's deeds, executor deeds, and corporate warranty deeds, the warranty deed signed by the fee owner must not be signed by the contract buyer. In those transactions, the contract buyer must sign a separate quitclaim deed.

If the grantor is unable to write, they may sign by mark, in which case the signature line appears as follows:

His	Her
John X Smith or	Jane X Doe
Mark	Mark

Everything but the "X" may be typed. The "X" must be affixed by the grantor. Although not required, it is customary to have the mark witnessed in writing by two people.

4.03-14 TRUSTS

Trusts can be created by a person when they are alive (inter vivos) or by will (testamentary). Where title is held in the name of a trust, it is necessary to include with the documents submitted for title approval the instrument creating the trust in order to determine if the trustee has power to convey, even though it may be in the recorded document. There is another form of trust sometimes known as the Illinois Land Trust which has been designed to keep the names of the owners of the beneficial interest unknown. The trustee takes title by deed and the deed makes reference to a trust agreement, but the agreement is not recorded. Consequently, in reviewing the title it is often impossible to determine whether or not the trustee has power to convey. In this situation a complete copy of the trust agreement must be obtained to determine their powers. It may be possible in rare instances to obtain title approval on the basis of a sworn statement which shows the particular provision of the trust relating to such power. The title company should always be contacted before anything less than the complete copy of the trust agreement is provided to the department. This will give the title company the opportunity to determine if it will insure title based upon the documentation provided. Most times the trust instrument will require a direction from the beneficiary to the trustee to convey and, if so, a copy of such letter of direction must be included with the submittal. Trusts of this nature should not be confused with a Trust Deed which, from its contents, indicates that it is a security transaction somewhat similar to a mortgage. The warranty deed in trust should not be confused with the trust agreement. Even though provisions of the trust may be referred to in the body of a warranty deed in trust, it is not acceptable in lieu of the trust agreement.

LA 408E, LA 408F, LA 408G, LA 408G1, LA 408H, and LA 408H1 are examples of the types of deeds to be used when the department must acquire land from a trust. These deeds require the trustee to warrant title. When dealing with a trust you may find that the trustees refuse to warrant title and want to change the language in the conveyance document from "grants, conveys, and warrants" to "grants and conveys." When this occurs, such trustee deeds must also include the same "after acquired title" language.

The following is a sample of the language that is required.

> ". . . . in consideration of _____ ($_____) Dollars in hand paid, receipt of which is hereby acknowledged, grants and conveys all the then existing legal or equitable rights of the Grantor in the premises described herein, and shall extend to any after acquired title of the described premises, unto the State of Illinois, Department of Transportation, the following described real estate, to-wit:"

4.03-15 DISCLOSURE OF BENEFICIAL INTERESTS

Before any contract to acquire property is entered into by the state or any local governmental unit and their agencies, and a trustee has title to the property, or property is owned by a corporation, partnership, or limited liability company, then such trustee or managing entity shall provide an affidavit in writing and under oath disclosing the identity of every owner and beneficiary having any interest, real or personal in such property (50 ILCS 105/3.1). Other statutes also require the name, address and interest of beneficiaries under oath (765 ILCS 405/2). Forms of disclosure can be found as LA 40315A, LA 40315B, and LA 40315C. This statutory requirement cannot be waived by anyone, and is required for deeds, permanent and temporary easements as all are contracts. No disclosure is required if the parcel is donated and no benefits are derived. Further, if the initial disclosures, or subsequent disclosures at other levels, show interests held by another corporation, partnership, limited liability company, or trust, then further disclosures should be requested until you know the names of individuals owning the interest in the entity involved, or can verify that the ultimate owner is a publicly-traded corporation in which no person is entitled to more than 7 1/2% of the total distributable income.

4.03-16 GUARDIANS

A guardian is a person lawfully invested with the power, and charged with the duty, of taking care of the person and managing the property and rights of another person, who, for defect of age, understanding, or self-control, is considered incapable of administering their own affairs.

A guardian ad litem is a special guardian appointed by the court to prosecute or defend, on behalf of an infant or incompetent person, in a suit to which they are a party, and such guardian is considered an officer of the court to represent the interest of the infant or incompetent person in the litigation.

There may be cases when a guardian or guardian ad litem is appointed by the court to complete a land acquisition transaction. When this occurs and the guardian executes the required conveyance instruments, then the documentation to approve title will need to include a copy of the guardian's letter of appointment and a copy of the court order that empowers the guardian to execute and deliver any deed or other instruments.

4.03-17 CONTRACT FOR DEED/INSTALLMENT LAND CONTRACT

When an acquisition involves a contract purchase, the contract buyer must sign a quitclaim deed (LA 408W) and the fee owner of the property must sign a warranty deed. The contract buyer may be named as a payee along with the fee owner on the warrant. The fee owner's name cannot be eliminated from the warrant.

4.03-18 LIFE ESTATES

When property involves a life estate the remaindermen must sign a warranty deed. At a minimum, the holder of the life estate must sign a quitclaim deed; however, the holder of the life estate may join the remaindermen as a grantor on the warranty deed. All parties will be named as payees on the warrant.

4.04 ENCUMBRANCES

4.04-1 MORTGAGE LIENS

A mortgage constitutes a lien on the land to be acquired. If all of the property is being acquired, a complete and general release of the lien of mortgage must be obtained from the mortgagee. When only part of a property is being acquired, a partial release of the mortgage must be obtained from the mortgagee. Partial releases will not be required on partial acquisitions costing $10,000 or less unless the department has any reason to believe that there

is a possibility the owner may default on the mortgage, there is a chance of foreclosure, or the remainder's value is less than $10,000. This includes fee takings and permanent easements.

The mortgagee must be named a payee on the warrant even though a partial release has been obtained, unless it requests in writing that its name be omitted from the warrant. Mortgage companies should be paid as their interest is shown on the title commitment. Their local agent should not be made payee. If the mortgage has been assigned to another company or its name has changed, the warrant should pay the company to which it is assigned, or the current name of said company. Any such changes should be clearly detailed in the signatory portions of warrant requisition. If the state is acquiring "Access Rights" from a property, such acquisition will have an impact on the value of remaining property. Therefore, it is also necessary to secure a partial release from the mortgage company as with any other acquisition over $10,000. All releases must be recorded. When the department's acquisition involves only the taking of a temporary easement a "Mortgagee's Consent to Temporary Easement" (LA 408Y) will need to be obtained in place of a release on those parcels over $10,000. The mortgagee should be named a payee or a letter obtained stating they do not want to be named payee on Temporary Easements over $10,000.

Generally, a partial release of the so-called "blanket mortgages" covering real property owned by the large utility companies, subject to the Illinois Commerce Commission, such as railroads and power companies, will not be necessary. A statement should be made in regard to the title exception on the warrant request, as follows: "after considering Section 4.04-1 of the Land Acquisition Manual a release is not required." Where a substantial amount is involved requiring Illinois Commerce Commission approval to the sale, the release should be obtained.

4.04-2 REAL ESTATE TAX LIENS

State policy requires that all real estate taxes be paid if all or a substantial part of the subject property is being purchased. The statutes provide that the owner of real property on January 1, in any year, shall be liable for the taxes of that year. The state cannot pay state or local taxes either in their entirety or any pro-rata share thereof; consequently, the owner must clear the tax lien on the property.

The Illinois Attorney General has published guidelines for handling taxes on capital improvement acquisitions. A portion of this publication is reproduced below as a suggested method of dealing with real estate taxes:

> "In Illinois, real estate taxes are payable in the year following their assessment and levy. Thus, taxes imposed in 1994 will be payable in 1995. Current taxes levied upon property constitute a lien upon the property, even though the taxes in question are not payable until the following year.
>
> The grantor must arrange to pay the current real estate taxes now outstanding against the property. In this connection, your attention is directed to 35 ILCS 200/9-185 for the manner provided for settling real estate tax liability upon transfer of land to an exempt use. In the event that difficulty is encountered in satisfying real estate taxes before the date that taxes are payable, the following procedure is suggested: the grantor should pay the current real estate taxes now due and owing and deposit with an escrow agent, agreed upon between you or the Special Assistant Attorney General (SAAG)representing you, and the grantor, a sum equal to 120% of the latest available tax bill on the premises. (Please note that county treasurers will often agree to serve as escrow agents and will hold such moneys for application to tax bills when issued.) The amount of the deposit should be based upon the fraction that the property being conveyed bears to the property described on the tax bill and should be pro-rated from January 1 of the current year to the date of the exchange of the consideration. The terms of the escrow agreement should be that the escrowee shall apply the funds in his hands to the payment of the current year's tax bill when issued next year and to refund any excess to the grantor. Upon delivery by the grantor of a properly receipted tax bill

showing full payment of such tax before the delinquent date and before application of the fund by the escrowee to such purpose, the escrowee shall return the entire fund to the grantor and deliver the receipt to your office."

Property acquired by the Department for highway purposes is exempt from real estate taxes once the state takes title. The department is however still required to file an application for exemption. The form that is required is the FEDERAL/STATE AGENCY, Application for Property Tax Exemption, designated as PTAX-300FS and commonly known PTAX-300 and sometimes referred to herein as the FORM and shown as LA 4042. This form shall be used for all fee acquisitions made by the department.

The FORM will be generated each month from LAS in CBLA and sent to the districts for distribution to the appropriate Supervisor of Assessments/County Assessor. The districts should work with each county to determine the frequency with which the PTAX-300's are filed. Some counties may wish that the district file the FORMS monthly, quarterly or annually. When possible, a district should attempt to accommodate those requests. It should be noted that, depending on the type of acquisition involved there is specific documentation required to accompany these forms. Examples can include copies of deeds, complaints, order vesting title, etc.

The PTAX-300 is a Department of Revenue form that has been designed to be generated from LAS and will provide considerable savings in preparation time in the district if LAS is properly utilized. The PTAX-300 automatically draws the necessary data from the Parcel Screen (P), the Appraisal/Negotiation screen (A/N), the Condemnation Screen (CD), and the tax screen (T). It is absolutely mandatory that those screens be kept current and maintained in an accurate manner.

Each year a form of affidavit is requested by the district office from the County Assessor or Supervisor of Assessments in order that additions or deletions to previously listed highway tax exempt property can be noted by the district and filed with the county official (35 ILCS 205/15-20). This matter is also discussed in Chapter 5.

Warrant requisitions should reflect the remaining value of the property in dollars so that the title data examiner will know if sufficient equity remains to satisfy all taxes. When the whole property has not been appraised, an estimated remaining value of the property should be made along with a statement that the whole property was not appraised with a reason therefore.

4.04-3 LIENS OF SPECIAL ASSESSMENTS

State policy requires that all liens of special assessment levied against the acquired property be satisfied if all or a substantial portion of the property is being purchased, even though Petition of City of Mt. Vernon (1893) 147 Ill. 359, holds that the state is not subject to special assessments.

4.04-4 LIENS OF OTHER STATE AGENCIES OR DEBTS OWED THE STATE

Statutes require that any amount owed the state must be set off before paying a claim against the state (15 ILCS 405/10.05). Accordingly, whenever a person from whom we are purchasing any real estate interest has a debt owed the state or a lien in favor of the state, such as for non-payment of sales tax, welfare payments, etc., it will be necessary to consult with the appropriate agency so that a release, full or partial, may be obtained and the proper offset made. Because the state cannot issue a warrant if there are federal or state taxes due, a release must be included with the warrant request as with any other curative documents.

Considerable care should be exercised to obtain a waiver of objections or to comply with requests of the title company, prior to submitting a warrant requisition to CBLA. Handling of judgments, liens or other interests, such as easements, affecting the title, both recorded and unrecorded, must be shown on the warrant requisition. This should also include replies or explanations for the standard printed objections in the report on title. The warrant requisition must also contain a statement that the district has checked the description recited in the report on title and has found it to cover the land to be acquired by the instrument under consideration.

Since title insurance does not protect against claims of persons whose interests do not appear on record, it is imperative that all evidence of such possible interests be ascertained at the earliest possible date. Persons who call upon property owners or visit the property are to ascertain the identities of all parties in possession, to observe any visible evidence of easements, encroachments, or other encumbrances, and to note visible improvements to the premises which may have been completed within four months immediately preceding the date of the inspection. If possible interests appear from these visits, the nature of such interests is to be fully investigated. If valid interests, though not of record, are found to exist, such as a contract for deed, leases or unrecorded conveyances, the interests must be acquired by the proper instrument, and such interests must be explained on the warrant requisition. The affidavit called for in Section 4.09 is also utilized to protect against the exceptions and exclusions of the title policy. If condemnation is necessary to acquire title, parties in possession must be included as additional defendants.

When the district receives a commitment that contains exceptions related to a recorded “NFR” (No Further Remediation) letter, a copy of the NFR letter must be faxed to CBLA for review by the Office of Chief Counsel. An NFR letter may contain specific provisions that impose restrictions on the department as to how the property can be used. The Office of Chief Counsel will review the NFR letter and provide further direction if needed.

4.05 MINERAL INTERESTS

District personnel must check the public records, review all other available data, and take such other action as may be necessary to determine: (1) the type of minerals involved, (2) whether the mineral interests are intact, and (3) any effect such mineral ownership and the inherent rights of surface owner have on the use which may be made of the land.

The state's title contract contains a separate bid item covering information relative to the severance deed and mineral report on title. The review of public records as well as a review of geological data, inspection of the site, etc., may enable the regional engineer to recommend that nothing further be done at this time to acquire surface releases from the owners of the royalty or working interests.

The state acquires title to the minerals underlying the surface when the fee interest is acquired unless the owner has specifically reserved them or the same have been previously severed in some manner from the surface ownership. No additional payment should be made for the mineral interest, and if the owner insists upon payment, the minerals may be reserved. The following paragraph should be added to the warranty deed following the description if the minerals are to be specifically reserved by the surface owner.

> "reserving however unto the Grantors, their heirs, executors, administrators, and assignees all of the coal, oil, gas and other minerals underlying the above described tract with the right to mine and remove the same, but without the right to break, disturb, or subside the surface of said tract."

If the mineral ownership has in some manner been severed from the surface ownership, the following procedures apply. The landowner's deed or dedication to the department must except out the previously severed mineral interest by adding either of the following after the deed's or dedication's legal description:

"Except therein mineral interests previously conveyed"

"Except therein mineral interests previously reserved"

The warrant requisition must contain a statement or recommendation relative to such mineral ownership. If said rights will not have any effect on the acquisition, a statement such as the following should be made in the encumbrance's portion of requisition A.

"Standard Mineral Exception LAPPM 4.05"

4.05-1 OIL AND GAS-PRODUCING FACILITIES WITHIN THE PROPOSED RIGHT OF WAY

It is customary in oil and gas producing areas for the owner of the minerals to make an oil and gas lease providing for a 7/8th interest therein to be vested in an individual, group, or firm subject to the terms thereof. This lease is generally for a term of years, or so long as oil and gas are produced, and carries with it the right to break and disturb the surface in connection with the recovery of any oil or gas which might lie beneath the surface. Such an interest is known as a "working interest."

The mineral owner's rights in the surface must be released, regardless of whether the acquisition is in fee or is an easement for highway purposes, in those cases where the oil and gas rights have been severed in some manner from the surface ownership. A Release of Surface Rights (LA 4051) should be obtained from the lessee and all assignees thereof that hold working or certain lesser interests as provided hereinafter. The major oil companies are generally cooperative in releasing these rights, as are many individuals.

The 1/8th interest remaining in the owner is commonly called a "royalty interest" and can be conveyed, devised or inherited. A release of surface rights from the owner(s) of this royalty interest will be necessary since ownership carries the right to break or disturb the surface and all outstanding interests will recur in the owner(s) after the lease expires.

If a visual inspection indicates that there are outstanding mineral interests the interests to be acquired will be governed by the mineral report on title obtained separately or in conjunction with the report on title covering the surface.

4.05-2 OIL AND GAS - NO PRODUCING FACILITIES WITHIN THE PROPOSED RIGHT OF WAY

Even if the evidence of the district's review reveals that there have been no producing facilities in existence for many years, if it is found that a majority of the working interest is owned by a large oil company or by an individual, it is wise to obtain a release of the valid and unexpired surface rights (LA 4051) involved. Statutes require an ownership of the right to drill for and remove oil and gas, of one-half interest or more by one or more persons to be able to bring suit for authority to drill for and remove the oil and gas (765 ILCS 520/1). The same principle of obtaining releases of the majority interest might well be applied to the owner(s) of the royalty interest. No mineral report on title should be ordered or will be necessary. In the event a review of the records indicates that mineral rights have been severed but production has ceased or was never accomplished, the districts should obtain an Affidavit of Non-Production (LA 4052).

Mineral rights other than oil and gas may also be severed from the surface ownership. In determining whether it will be necessary to obtain a release of surface rights from the owner(s) of such mineral rights, you should consider whether the minerals have been mined or removed in some manner and, if not, whether removal of the same may affect the present or future integrity of the highway improvement. Highway improvements can be affected by the mineral owners right to break or disturb the surface, to purchase or use the surface, or cause subsidence without liability therefore. If the highway improvement can be affected, then so much of the mineral owners' rights as are needed to protect the highway improvement should be acquired.

Depending on the circumstances, it may be advisable to obtain the recommendation of a mineral specialist in determining whether to acquire the mineral interest or the surface rights of the mineral owner.

If, after proper review, a determination is made to acquire a release of surface rights, then it will be necessary to obtain a report on title covering mineral ownership, separately or in conjunction with the report on title covering the surface.

4.06 PROPERTY OR RIGHTS OWNED BY UTILITY COMPANIES

Crossing or in any manner affecting a utility company's operating facilities can give rise to many problems. The Bureau of Design and Environment is responsible for processing construction agreements involving railroads and other utilities. The department has issued a policy governing the accommodation, maintenance and emergency maintenance of utilities other than railroads on the state highway system.

The following procedure will apply to the acquisition of utility company operating property or interests. Compensation, if any, will be determined under Section 2.02-15. See Section 4.04-1 relative to release of mortgages on these acquisitions.

If the utility owns an easement in land required for the construction of a Federal-Aid Interstate Route, it will be necessary, in addition to obtaining the fee title from the underlying fee owner, to also obtain a release and subordination of the utility's interest to the right of the state to construct the highway. LA 406A has been designed for this purpose.

When the utility owns an easement in land required for construction of all other routes (Freeway or Non-Freeway) it will be necessary, in addition to obtaining the fee title or an easement for the highway, as the case may be, from the underlying fee owner, to also obtain a release and subordination of the utility's interest (except that reference to Interstate Route and the paragraph relating to limitation of maintenance of the utility's facilities should be eliminated) (LA 406B) or by having the utility company also execute the instrument obtained from the underlying fee owners.

If the utility owns the fee to the land required for construction of a Federal-Aid Interstate Route, it will be satisfactory to acquire an easement for public road purposes from the utility on crossings or an easement or fee title on longitudinal acquisitions using the standard form and adding the standard subordination paragraph limiting utility maintenance of its facilities.

In those cases where the utility owns the fee to the land required for construction of all other routes (Freeway or Non-Freeway), it will be satisfactory to acquire an easement for public road purposes on crossings, or an easement or fee title on longitudinal acquisitions using the appropriate standard form. LA 406C (Freeway Release) will be used if no land is to be acquired and the utility ownership abuts the Freeway, except for freeways on new locations, in which case the Attorney General has held that there are no inherent rights of access in abutters.

If the utility facilities are to be relocated, it will be necessary to acquire all pre-existing rights of the utility in the property to be utilized for the highway. This can be accomplished by obtaining a warranty deed from the utility, if owned in fee, or, if an easement, by having the utility join in the conveyance from the underlying fee owner, or by executing the appropriate standard form. LA 406A or LA 406B should be used for this purpose. If this is the case, you must indicate the handling of the utility's interest on the warrant requisition for which covers the underlying fee owner, under encumbrances, etc., by stating that you have or will obtain an appropriate instrument executed by the utility company or that the easement of the utility does not affect the right of way.

The general utility easements occurring in subdivisions can often be handled by affidavit with the title insurance company, if no facilities are installed. A separate warrant requisition must be forwarded when the utility owns the fee the same as is customary on other acquisitions from the owners.

In acquiring non-operating property of a utility company, the company shall be treated as any other owner of land required for the project. A utility company property may be condemned but it requires approval of the Illinois Commerce Commission.

4.07 ACQUISITION FOR FREEWAYS

Statutes authorize the establishment of freeways in the state of Illinois (605 ILCS 5/8-101 to 5/8-109). A freeway is a controlled access highway, defined in the Illinois Vehicle Code as "Every highway, street or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except as such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street or roadway" (625 ILCS 5/-1-112). An opinion of the Attorney General, (1959 OP Atty. Gen. #548), states that the department need not acquire or pay for the acquisition of access rights from property abutting a freeway on a new location. A new location is defined as one which does not replace a highway, street or roadway to which an abutting owner formerly had access. A freeway may be established under the concepts of either complete control of access, or modified control of access.

4.07-1 FULL FREEWAYS

Direct access from abutting property to the travel lanes of a freeway with complete control of access is never permitted. There may be occasions where a freeway is established on other than a new location, with complete control of access from the abutting property where it may be necessary to indicate how the abutting property will have access to the Freeway. If this situation occurs, a provision has been developed for incorporation in the instrument of conveyance:

> Local Service Drive or Frontage Road to be Constructed - All Access Rights, or Right of Way and all Access Rights to be Acquired "Excepting, however, that the Grantee shall supplement the main Freeway pavement with a (permanent all weather) local service drive (frontage road) to provide access to the main Freeway pavement at an interchange. Access to the local service drive (frontage road) from the abutting property of the Grantor shall be by way of (an) entrance(s) to be provided thereto in accordance with the "Policy on Permits for Access Driveways to State Highways."

4.07-2 MODIFIED FREEWAYS

A freeway may be also established under a concept of modified control of access as follows:

- By agreement or stipulation with the property owner, when access rights are being acquired, the department may designate points of direct access to the freeway from the abutting property, to be used solely for agricultural or single family residential purposes.

- Whenever property held under one ownership is severed by a freeway, with limited or modified access control the department may permit the crossing of the freeway at a designated location and under specified terms and conditions to be used solely for one single family residential and/or farming purposes and for passage from one severed tract to the other. If such severed tracts at any time cease to be held under one ownership, the department shall terminate and revoke the said permit; however, access to the freeway will continue to be allowed at the same points, if this is the only access to the tract.

- Direct access from abutting property to the freeway is never permitted for commercial purposes. Where commercial units are located on roads that intersect the freeway, access to the freeway is limited to that provided by the said intersecting roads. When these units are located in areas through which local service drives or frontage roads are to be constructed, access from the abutting property is to the local service drive or frontage road and thence to the freeway by way of the local service drives or frontage roads where such local service drives or frontage roads provide access to the freeway.

- If such a unit is so located as not to fit in either of the above patterns, then the right of access to the freeway will be completely extinguished by purchase or condemnation.

On freeways with a modified control of access, certain provisions have been developed for incorporation in the instrument of conveyance as appropriate, to wit:

CASE 1

Entrance is required solely to connect severed parcels. "A crossing at grade of the freeway solely for passage from one severed tract to another is provided at station _____ thereof, which crossing shall remain in effect and operation only so long as said lands are held under one ownership. Entrance(s) to the freeway will also be provided at station(s) _____ thereof, which shall remain in effect and operation only so long as said entrance(s) is used for farming or for one single family residence or both and so long as such entrance(s) is not used for access to a commercial enterprise other than farming. It is further understood that the use of either entrance by the general public to purchase any agricultural product is to be considered a commercial enterprise other than farming. Violation of any of the terms and conditions set forth herein authorizes the department to take such action as it deems necessary to terminate and revoke these rights and/or to enforce such terms and conditions as are contained herein."

CASE 2

All Grantor's property on one side of the Freeway. Existing entrance to remain in place. "The existing direct access entrance from the present abutting land of the Grantor to the freeway at station _____ thereof, shall remain in effect and operation only so long as the said entrance is used for farming purposes or for one single family residence or both, and so long as said entrance is not used for access to a commercial enterprise other than farming. It is further understood that the use of said entrance by the general public to purchase any agricultural product is to be considered a commercial enterprise other than farming. Violation of the terms and conditions set forth herein authorizes the department to take such action as it deems necessary to enforce such terms and conditions."

CASE 3

All Grantor's property on one side of the freeway. New entrance to be provided. "A direct access entrance from the present abutting land of the Grantor to the freeway shall be provided at station _____ thereof, it being understood that said entrance shall remain in effect and operation only so long as the said entrance is used for farming purposes or for one single family residence or both, and so long as said entrance is not used for access to a commercial enterprise other than farming. It is further understood that the use of said entrance by the general public to purchase any agricultural product is to be considered as a commercial enterprise other than farming. Violation of the terms and conditions set forth herein authorizes the department to take such action as it deems necessary to enforce such terms and conditions."

The appropriate instruments of conveyance must be used if access rights are to be acquired as set forth above. This would include the use of the Freeway Release (LA 406C) where access rights only are to be acquired.

4.07.3 OTHER BUREAU RESPONSIBILITIES

The concepts concerning freeways set forth above are limited to those affecting the responsibility of the department's land acquisition personnel in acquiring the necessary rights or interest or in setting terms and conditions in the instruments of acquisition. Additional detailed material concerning the establishment of freeways can be found in the Bureau of Design and Environment manuals. The access control plan for a particular freeway also provides additional and valuable information for understanding the acquisition and the terms and conditions of the access control. The access control plan is available from the Bureau of Design and Environment. The Policy on Permits for Access Driveways to State Highways of the Bureau of Operations also contains information relating to access control on freeways. Violation of the terms and conditions of access restrictions contained in the instrument or instruments of conveyance are to be first referred by the district to the Central Bureau of Operations for such handling as it deems necessary with the Office of Chief Counsel.

4.08 INSTRUMENTS OF CONVEYANCE

Copies of the approved forms of deeds, easements, releases, etc. are indexed at the beginning of Chapter 4 Exhibits.

NOTE: District personnel are not authorized to change these documents without prior approval from CBLA.

4.08-1 DAMAGE WAIVER

The department's standard deeds, permanent and temporary easements should all contain the following clause:

"The Grantor, without limiting the interest above granted and conveyed, does hereby acknowledge that upon payment of the agreed consideration, all claims arising out of the above acquisition have been settled, including any diminution in value to any remaining property of the grantor caused by the opening, improving and using the above-described premises for highway purposes. This acknowledgment does not waive any claim for trespass or negligence against the Grantee or Grantee's agents which may cause damage to the Grantor's remaining property."

The purpose of this clause is to assure that the land acquired through negotiation accomplishes the same results as land acquired through the eminent domain process; settlement of all real and potential claims against the state as the result of a taking would be made.

The practice of accepting a deed without a damage waiver creates the potential of a later damage claim against the department or a Court of Claims action.

The only exceptions to requiring this damage clause in our conveyance documents are as follows:

- whole take is involved
- the landowner provides a separate release which states that the consideration includes compensation for any damages to the remainder due to the acquisition of the right-of-way (Use Release in Lieu of Waiver of Damage Clause, LA 408AA.)
- when the property is transferred to the state without payment of compensation
- when railroad right of way is needed for highway purposes, the requirement of the damage waiver is satisfied if there is an executed railroad agreement on the project

It is the Department's policy to utilize the above exceptions only when the property owner specifically objects to the damage clause in the conveyance document and only when the acquisition meets the above-described circumstances.

In addition to the above, the following is also acceptable for the circumstance described:

For Freeway Deeds

> "The Grantor, without limiting the interest above granted and conveyed, does hereby acknowledge that upon payment of the agreed consideration, all claims arising out of the above acquisition have been settled, including any diminution in value to any remaining property of the Grantor caused by the opening, improving and using the above-described premises for highway purposes. This acknowledgment does not waive any claim for trespass or negligence against the Grantee or Grantee's agents which may cause damage to the Grantor's remaining property; and for the consideration hereinabove stated the Grantor, conveys and relinquishes to Grantee all existing, future or potential easements or rights of access, crossing, light, air or view, to, from or over the premises herein described and the public highway identified as _____ Route _____ from or to any remaining real property of the Grantor abutting said premises or said public highway whether consisting of one tract or contiguous parcels."

The purpose of land acquisition is to provide the landowner with just compensation for land needed for highway purposes. This includes two elements:

- payment of fair market value of land taken or used by the department
- payment of the damage due to the reduction in value of the remainder of the property

Unless both the department and landowner have agreed on this value, there is no true agreement. The damage waiver assures that the landowner understands that acceptance of the state's offer is a final settlement of all elements of eminent domain. It proves evidence of the parties' agreement. If the landowner is unwilling to indicate their agreement of this matter, the parcel should be referred for condemnation.

4.09 CLOSING DOCUMENTS - GENERAL

In addition to obtaining the properly executed instruments of conveyance it is necessary to obtain an affidavit of title, and to provide the owner with a form of receipt to acknowledge the delivery of the fully executed instruments to the department. These forms are discussed in the following paragraphs.

4.09-1 AFFIDAVIT OF TITLE

In preparing the documents necessary for title examination, state policy requires that an Affidavit of Title be obtained (See LA 4091A or LA 4091B). The purpose of this affidavit is to determine whether there are any outstanding interests which impair or potentially impair the title being transferred to the state of Illinois. In the case of the Affidavit or Operating Railroad Affidavit it will also disclose any shareholder's interest who is entitled to receive more than 7 1/2% of the total distributable income of any corporation having an interest in the property (50 ILCS 105/3.1). "Further, if the initial disclosures, or subsequent disclosures at other levels, show interest held by another corporation, partnership, or trust, then further disclosures must be requested until the names of individuals owning the interest in the entity involved are known, or you can verify the fact that the ultimate owner is a publicly-traded corporation in which no person is entitled to more than 7 ½% of the total distributable income." Disclosure forms can be found as LA 40315A, LA 40315B or LA 40315C)

The items covered in the affidavit are also the same items excluded from the standard title insurance policy. They are general items which do not appear on the public records, but which must be accounted for in the title examination process.

The affidavit is part of a three-step method to protect the Department of Transportation from the existence of interests not covered by the title policy. These most important steps are (1) the observations by the appraiser(s) and the negotiator of the condition of the property being acquired, (2) the Affidavit of Title, and (3) the records check prior to delivery of the warrant to the owner.

The affidavit must be made by some person who is fully acquainted with and knowledgeable of the facts. It cannot be made on information and belief or with a disclaimer. If a trustee is unable or unwilling to provide the information, a beneficial owner can make the affidavit. In the event that some of the statements cannot be made, the potential problem must be resolved before title can be approved. It is intended to disclose the existence of the following types of problems:

- Tenant's rights
- Existing unrecorded leases
- Unrecorded contracts for purchase
- Unrecorded deeds
- Unrecorded easements
- Encroachments or boundary disputes
- Chattel mortgages affecting crops or machinery
- Potential mechanics liens
- Unrecorded mineral leases
- Tax liens

In preparing the affidavit for signature, the negotiator must interview the owner to determine the use and occupancy history of the property. If the information received, and/or the negotiator's observation of the property, suggest that any of the above interests exist, further inquiry must be made to determine if it is necessary to obtain additional releases or quitclaim deeds to satisfy these interests. An affidavit is required for all acquisitions except temporary use permits. Temporary use permits from a corporation will require an affidavit in order to fulfill the ownership disclosure of interest requirement.

There are occasions when a railroad refuses to provide the required Affidavit of Title. Operating railroad right of way in particular can be likened to operating highway right of way. Because the usage is singular and monumental, either for railroad purposes or for highway purposes, the likelihood of claims against the standard title policy exceptions seems virtually non-existent.

Therefore, where it is clear from visual inspection that a railroad's property is in fact improved with operating railroad facilities and used solely for operating railroad purposes, LA 4091B entitled Operating Railroad Affidavit may be utilized. As an absolute minimum, all railroads must attest to the 7 1/2% ownership as this is a statutory requirement. Use Disclosure of Ownership Affidavit, (LA 40315B or LA 40315C). Any objections by a railroad to items #2 and #4 may alternatively be satisfied with affirmative statements by the surveys of the acquired property. Such statements by the district shall be in the following format and accompany the copies of title documents:

> "District personnel have visually inspected the subject parcel and find it to in fact be operating railroad right of way with no parties other than the owners in possession of any portion of said parcel; nor does the department's survey of the subject property reveal any apparent encroachments, overlaps, or boundary line disputes involving the subject parcel."

In all acquisitions involving non-operating railroad-owned property, including abandoned railroad right of way, the more comprehensive Affidavit (LA 4091A) must be obtained without exception.

4.09-2 RECEIPT FOR WARRANTY DEED

A written receipt is to be issued to the property owner upon receipt of a fully and properly executed instrument conveying the property or property interest sought for right of way or other use by the Department of Transportation. The "Receipt" (See LA 4092) states that the property or interest therein is conveyed subject only to (1) approval of title by the state of Illinois, and (2) the payment of the recited consideration to the Grantor(s).

The receipt is captioned by reference to the route and section, project, and parcel number, and the name of the Grantor(s). Further reference is made to Section, Township, and Range and the approximate area of the subject land. The consideration for the owner retention of improvements, if applicable, is also noted. Provision is also made relative (1) the date of possession and (2) the date of commencement of, and the amount of rent to be charged if the property is to be rented by the previous owner, the same to be effective upon expiration of the established period of free occupancy. When a closing statement is required, (see Section 4.09-3) then LA 4093 should be used in lieu of LA 4092.

Restrictions or reservations relative to access control and/or limitations are normally recited in the instrument of conveyance. Agreements relative to construction items, if any, are normally handled by a separate letter from the regional engineer which should be attached to the receipt.

It is important that all agreements relative to the conveyance be in writing so that there will be no area of doubt or controversy as to the respective obligations of the State and the Grantor(s), and those agreements should be attached to the receipt.

The Receipt for Deed (LA 4092) or Closing Statement, Receipt for Deed and Designation of Funds (LA 4093) must also include the information necessary for the department to fulfill the IRS 1099-S filing requirements, as covered in 3.01-3.

4.09-3 THE CLOSING STATEMENT

A closing statement ("Closing Statement, Receipt for Deed and Designation of Funds " - See LA 4093) is to be prepared and furnished the owner when deductions are made from the total purchase price for such things as payment for tenant-owned improvements, payments for mortgages, taxes, lien releases, etc., which are to be paid by the state out of the purchase price. This form cannot be used to break out separate warrant if interests are not specifically called out by the title commitment except in cases of tenant-owned improvements. Normally all warrants should be made payable to the fee owner and lien holder. The form is used for transactions **not** covered by a Receipt for Deed (Section 4.09-2).

It should be noted that except in cases of tenant owned improvements such designation of funds is not intended to be used in the nature of an assignment of funds to parties not holding an interest in the property nor can it be used to designate an allocation of funds to a real party in interest.

It is also necessary to prepare the closing statement when some part of the purchase price is withheld, subject to forfeiture, or to ensure performance as agreed of some act or action by the Grantor or other interested party. (For example, removal of a building.) Section 4.20 addresses acquisition of advertising signs.

The closing statement should be acknowledged by the owner and certified as correct by the department representative handling the closing. A copy of the same must be presented to the owner for his records and file copy must be maintained in the district parcel file. If the deed will not be surrendered by the owners, then the closing statement and designation of funds should be used.

4.10 TITLE EXAMINATION

By statute, title to property or interests therein must be approved by the Attorney General when the consideration to be paid exceeds $10,000 (30 ILCS 545/2). All invoices ordering the payment of said consideration are approved by the Attorney General as to title and interest of the payee(s). The Attorney General requires a commitment on title with minutes of condemnation prepared by a qualified title insurance company in order to make this approval. The title findings shown in said commitment, or commitment with minutes of condemnation, must not be older than ninety (90) days, if consideration being paid is over $10,000 and, if older, must be recertified or a date down endorsement thereto obtained. For those acquisitions of $10,000 or less the commitment cannot be older than 120 days.

Title to those purchases of $10,000 or less in District 1 is approved by a staff attorney in the District 1 Office. Title to those purchases of $10,000 or less in Districts 2 through 9 is approved by a staff attorney in the Office of Chief Counsel.

The requirement of title approval by the Attorney General does not apply to property or other real estate interest acquired for projects constructed under the Bikeway Act. Title approval in these cases, when the necessary interest is taken in the name of the state, will be performed by the department's staff attorneys.

State policy requires that the examination and approval of title on all fee acquisitions shall be based upon a commitment on title, or commitment on title with minutes for condemnation, obtained from local abstracters. When the consideration is $10,000 or less, only one copy of the commitment or commitment with minutes for condemnation need be furnished for staff attorneys examining and approving title; whereas, when the consideration is greater than $10,000, an additional copy must be furnished for the Office of the Attorney General to examine and approve title.

Temporary easements or temporary use permits whose consideration is $10,000 or less must also have one copy of the supporting data. “No title data of any kind will be necessary but the warrant requisition must contain a statement "that title to the land subject to the easement or permit has been examined by the district, the instrument executed by all necessary parties and, payee's certified as entitled to the compensation."

For temporary easements over $10,000, title data and all other supportive documents are required. If a tenant is involved, LA 408X shall be utilized to obtain the necessary consent. If the property is encumbered by a mortgage, LA 408Y can be used. It should be specifically noted that if the Grantor is a land trustee, then a disclosure identifying the owners of the beneficial interests in the Trusts is required regardless of the amount of the consideration to be paid for the instrument. When acquiring only a temporary easement from a trust and the compensation is $2,500 or less, it is not necessary to submit a copy of the trust agreement. If the value of the temporary easement exceeds $2,500 a copy of the trust agreement must be submitted with the title documents when title approval and the warrant for payment are requested.

4.10-1 TITLE INSURANCE SERVICES

Bids are solicited by CBLA from the title insurance companies qualified to perform title services throughout the state of Illinois for the furnishing of title insurance for all districts of the Division of Highways (division). Contracts for such services are awarded to the lowest qualified bidder, and each district office has the initial authority for ordering the required title data under the contract. All companies contracted to provide title insurance services understand that orders for such title insurance will cover all parcels to be acquired whether by negotiated settlement or by condemnation proceedings. Under the contract, a commitment with minutes for condemnation, date down endorsement and policy are obtained.

Title guarantee policies shall be secured on all acquisitions, except temporary easements, when commitments have been obtained. Each policy of insurance is to be in full value of the real estate acquired. The amount of damages to the remaining land, if any, will not be covered unless an extraordinary case occurs. The policy must be checked to see that all objections have been disposed of and that title is free and clear in the name of the People of the State of Illinois, Department of Transportation. Policies must be ordered within 180 days of the commitment or update to assure issuance of the policy.

When possession does not agree with the findings of the title company, the district may be required to provide an affidavit similar to those shown as LA 4101A and LA 4101B.

4.10-2 CLOSING TITLE

Upon receipt of the warrant, and prior to delivery of the same, it will be necessary for the district office to determine whether or not there have been any changes in interested parties or other matters, subsequent to the execution of the instrument of conveyance, which might affect title. A checklist, modified to fit the records of each county, should be prepared to assist in this work. (See LA 4102) Each parcel file must include some type of documentation that the appropriate records were checked prior to the delivery of the warrant.

If there have been any changes, CBLA should be contacted, the details given and the warrant held until further instructions are given. If the title is still clear, the acquisition can be closed. If the acquisition is to be closed in escrow, the warrant is delivered to the escrowee.

4.10-3 RECORDING THE INSTRUMENTS

After the warrant is delivered, the executed right of way instruments must be immediately filed of record with the County Recorder of the county (this is strongly recommended for temporary easements) in which the real estate is located. The agent should be sure that the instruments are immediately entered upon the entry book. This must be done in order to avoid the possibility of a judgment or lien being placed on the property between the time the warrant is delivered and our deed is recorded. The recorder should be advised that the instruments are to be returned to the district office after recording. The state is required to pay recording fees. A title insurance policy, if applicable, should then be ordered from the authorized title insurance company. When the policy is received, it should be examined immediately to see that it covers the property acquired, and that merchantable title is vested in the state of Illinois.

The statutes provide "No recorder shall record any instrument affecting title to real estate unless the name of the person who prepared and drafted such instrument is printed, typewritten or stamped on the face thereof . . ." (55 ILCS 5/3-5022).

An Attorney General's opinion states that "person" or "persons" as well as all words referring to or importing persons may extend and be applied to bodies politic and corporate as well as individuals (1975 Opinion Atty. Gen. S-880). The instrument(s) should be stamped as follows:

> "This instrument prepared by State of Illinois, Department of Transportation (Insert district's address here)."

Deeds to the People of the State of Illinois, Department of Transportation are exempt from real estate tax under Paragraph b of the Real Estate Transfer Law 35 ILCS 200/31-45. The Department of Revenue has advised County Recorders that, the completion and filing of the Real Estate Transfer declaration is required, but no tax is due. A rubber stamp may be used as follows:

"Exempt under provisions of Paragraph b, Section 31-45, Real Estate Transfer Tax Law."

_____ _____

Date Buyer, Seller or Representative

Effective January 1, 1995, 55 ILCS 5/3-5018 made changes in the process of recording instruments filed for record in the Recorder's Office throughout the state of Illinois.

- The document shall consist of one or more individual sheets measuring 8.5 inches by 11 inches, not permanently bound and not a continuous form.
- The document shall be printed in black ink, typewritten or computer generated, in at least 10-point type.
- The document shall be on white paper of not less than 20-pound weight and shall have a clean margin of at least one-half inch on the top, the bottom, and each side.
- The first page of the document shall contain a blank space, measuring at least 3 inches by 5 inches, in the upper right corner.
- The document shall not have any attachment stapled or otherwise affixed to any page.

A document that does not conform to these standards shall not be recorded except upon payment of the additional fee.

Escrow services are seldom used for title closings. However, fees for this service are set in the accepted bid for title services submitted by the bidding companies for each of the nine districts so that escrow services may be available when needed for complicated transactions or when requested by the property owner.

The deed to the state is deposited with the escrowee and the state agrees to deposit the consideration. The consideration for the purchase is made payable to and deposited with the escrowee who checks the title, records the deed, and issues a guarantee policy showing the title in the state after which the consideration is distributed to the interested parties.

4.11 REAL PROPERTY OWNED BY THE STATE AND UNDER THE CUSTODY AND CONTROL OF OTHER STATE AGENCIES

The Department of Transportation may acquire property owned by the state and under the custody and control of other State agencies (605 ILCS 5/4-504). For such an acquisition, an instrument is prepared for execution by the appropriate agency heads, and approval of the Governor. One copy of the instrument prepared in the draft form, and adjusted to cover the proper agency, route, purpose, etc., shall be submitted to CBLA for review and final drafting, and to secure execution by the proper officials. A completed plat and title evidence will also be submitted to CBLA by the district. A statement must accompany the request indicating that the transfer has been discussed and is satisfactory to the local office of the agency in question. Full particulars must also be included concerning any agreements with the said agency relative to fencing if access rights are not involved, etc.

4.12 REAL PROPERTY OWNED BY THE FEDERAL GOVERNMENT

The Federal Aid Policy Guide sets forth the procedures for acquiring lands or interests in lands owned by the United States for state highway purposes. In most cases the Federal Highway Administration (FHWA) coordinates the land acquisition transactions conducted by other federal agencies. There are exceptions to this however and all acquisitions involving the United States Government should be coordinated through CBLA.

4.13 ACQUISITION OF PRIVATELY OWNED LANDS OR INTERESTS IN LANDS BY FEDERAL CONDEMNATION ACTION

The state may also acquire privately owned land, or interests therein, through the use of the federal government's power of condemnation. 23 CFR Section 710.603, Direct Federal Acquisition, prescribes the policies and procedures relating to the acquisition of privately owned land, or interests in lands, by the United States Secretary of Transportation upon the request of a state, when such lands are required for the construction of the interstate system or defense access roads. It is imperative that the requirements of the Program Manual be complied with in its entirety and it will be necessary to furnish two additional copies of the required data in all such cases. A "right of entry" is given to the state for construction purposes after the United States has acquired title to the property. A formal deed is delivered for acceptance and recording at a later date.

4.14 ACQUISITION OF LAND FOR RELOCATION OF RAILWAY TRACKS OR PUBLIC UTILITY FACILITIES

It is possible to acquire by negotiation or condemnation, substitute right of way to relocate the line or tracks of railroad or facilities of a public utility which are not located in or upon a public street or highway and whose relocation is required by a highway improvement, if an agreement covering the relocation has been approved by the Illinois Commerce Commission (605 ILCS 5/4 505). It is the policy of the division. that a utility company acquires its own right of way for such relocations. However, where the provisions of (605 ILCS 5/4-505) are to be used, the agreement, in triplicate, should be submitted in the form of LA 414A. The exhibit has

been drafted to cover the acquisition and conveyance of an easement to the company but it may be that on occasions the fee title would be acquired requiring modification of said exhibit. It is expected that the utility company would obtain the approval of the Commerce Commission as a part of its contribution to the acquisition and provide the department with an order of the Commission approving the agreement for use in acquiring the substitute right of way. However, this approval from the Commerce Commission could also be obtained by the district. A form of deed for subsequent conveyance of the substitute right of way to the utility company, attached as LA 414B, must be prepared in draft form and submitted to CBLA together with the agreement.

4.15 ACQUISITION OF PROPERTY TO REPLACE PROPERTY OF PUBLIC AGENCY

If property owned by another public agency and devoted to a public use is required for a state highway project, it is possible to acquire by negotiation or condemnation such easements, rights, lands or other property as may be necessary to replace this property required, provided that the department and the public agency enter an agreement relative thereto (605 ILCS 5/4-509). A form of such agreement can be found at LA 415. The execution of such agreement must precede the acquisition of the replacement property.

After acquiring the replacement property, the department is authorized to convey it to the public agency. This has been made applicable to property owned by state agencies by an Attorney General's opinion (1975 Op. Atty. Gen. S 1424). Rather than a deed, a transfer of jurisdiction under the Illinois Highway Code and Section 4.11 is used to complete the action.

Detailed requirements for functional replacement of property of another public agency may be found in Section 8.01 of the Manual.

4.16 ACQUISITION OF REMNANTS AND REMAINDERS

Under the Highway Code remnants or remainders can be acquired under certain conditions (605 ILCS 5/4-501). It is desirable to acquire these by a separate deed as non-operating right of way with the remnant or remainder value as the consideration. It is the policy of the division to acquire such remnants with straight state funds rather than with participating federal funds. The parcel should be inventoried in the Non-Operating Highway Right of Way System (NORWAY). See Section 5.09.

4.16-1 INACCESSIBLE REMNANTS

Inaccessible remnants may be acquired by purchase or condemnation where, in the judgment of the acquiring agency, it is more practical and economical to acquire the fee to said inaccessible remnant than to pay severance damages.

4.16-2 ACCESSIBLE REMNANTS OR REMAINDERS

When a part of a parcel of land is to be taken and the accessible remnant is to be left in a shape or condition rendering it of little value or use to the owner or giving rise to claims for severance or other damages, then upon the written request of the owner, the acquiring agency may acquire the whole parcel. (See Section 3.05-17, UNECONOMIC REMNANTS)

When acquiring land for a highway on a new location and when a parcel of land of one acre or less in area contains a single family residence, which is in conformance with existing zoning ordinances, and only a part of said parcel is required for state highway purposes causing the remainder of the parcel not to conform with existing zoning ordinances, or when the location of the right of way line of the proposed highway reduces the distance from an existing single family residence to the right of way line to ten feet or less, the acquiring agency, shall, if the owner so demands, take the whole parcel by negotiation or condemnation.

4.17 JOINT IMPROVEMENT AGREEMENTS - GENERAL

Joint improvement agreements are prepared by the district and processed either by the Central Bureau of Design and Environment or Central Bureau of Local Roads and Streets, depending upon the road system or type of funds involved. Agreements having right of way consideration should be reviewed by the district land acquisition staff before being submitted to the appropriate central bureau.

The responsible highway agency, the type of funds involved, and designation of the acquiring agency each has a bearing on the right of way acquisition provisions to be included in joint improvement project agreements.

CBLA does not review these agreements/ however, district land acquisition staffs can request assistance from CBLA for unusual or complex situations.

For purposes of these procedures there are two types of projects to be considered as follows:

- State highway projects, with or without federal-aid in right of way acquisition costs and/or construction costs - Detailed procedures for drafting agreements for this type of project are set out in Sections 4.17-1, 4.17-2 and 4.17-3.

- Local agency projects, in which federal-aid participation is to be sought in any project costs - Detailed procedures for drafting agreements for this type of project are set out in Sections 4.17-4 and 4.17-5.

4.17-1 TITLE TO RIGHT OF WAY STATE HIGHWAY PROJECTS

State highway projects are defined as any improvement project, in whole or in part, of any existing highway on the state's system of highways, whether on a marked or unmarked route, in which the state has jurisdictional responsibility. Ordinarily additional right of way is acquired by the state, in which case the joint agreement for the improvement would contain a statement to the effect that "The state agrees to acquire all necessary additional right of way for the project at its own cost and expense (subject to reimbursement as hereinafter provided)."

However, as a condition of participation in state highway improvement projects, local agencies may be willing to provide such acquisition services, acting as agents of the state, in accordance with the department's land acquisition policies and procedures. This and the following paragraphs address the provisions required in joint improvement agreements to assure a complete understanding concerning each agency's responsibilities and duties.

Only the department and counties are authorized to take title in their own name for a state highway improvement regardless of how the cost of the right of way is treated (605 ILCS 5/4-501).

While under the statute a county can take title in its own name to land required for a State highway improvement, it is the policy of the division that such title should be taken in the name of the state. Therefore, except in unusual circumstances, it is mandatory that agreements covering joint improvements with local governmental agencies provide that all right of way required for an improvement to the state highway system be taken in the name of the state.

It should be noted this policy does not apply to federal-aid secondary routes on the county highway system, but does apply to federal aid secondary routes for which the state will have maintenance responsibility as these are on the state highway system (605 ILCS 5/2-101 & 5/2-102).

4.17-2 TITLE APPROVAL TO LAND STATE HIGHWAY PROJECTS

See Section 4.10. The provisions therein are also extended to cover a situation where the county acquires title in its own name for a state highway improvement. In the event the local agency is paying for the cost of the right of way, at the time title approval is requested in accordance with Section 4.10, a notation should be added to the warrant requisition form indicating that the local agency will pay the consideration for the purchase.

4.17-3 STANDARD AGREEMENT PROVISIONS- STATE HIGHWAY PROJECTS

If the local agency is to provide the personnel for acquiring the right of way on behalf of the state, the provisions shown on LA 4173 should be used. However, all local agency staff members or contract personnel who are to perform appraisal, negotiation or relocation functions must be approved in advance by the state.

Paragraph G of LA 4173 provides that it is the state's responsibility to supervise and to guide and assist local agencies in each step of the right of way acquisition process to assure compliance with the department's land acquisition policies and procedures. This responsibility is delegated to the district of Land Acquisition who must also work closely with the District Bureau of Local Roads and Streets in coordinating project activities prior to and during the entire right of way acquisition process.

4.17-4 TITLE TO RIGHT OF WAY- LOCAL AGENCY HIGHWAY PROJECTS

For the purposes of this chapter local agency projects are defined as any federally-assisted project for the improvement of any existing highway, road or street, not on the state's system of highways. The acquisition of any needed right of way for a local agency improvement project, including the approval of title thereto, is the responsibility of the local agency and such additional right of way is acquired in the name of agency.

As a prerequisite to advertising an improvement project for letting by the state, the local agency must certify to the department's regional engineer that the additional right of way required for the improvement has been secured, paid for and vacated and that the interests acquired in such right of way are adequate for the highway facility to be constructed thereon. The department then makes the same certification to FHWA when requesting authorization to advertise a project. Verification and certification of compliance with Titles II and III of the Uniform Act will be in accordance with Section 8.03.

4.17-5 STANDARD AGREEMENT PROVISIONS LOCAL AGENCY HIGHWAY PROJECTS WITH FEDERAL PARTICIPATION

On local agency projects, in which there is to be federal participation in **any phase** of the project, local agencies will be required to follow the department's land acquisition policies and procedures as these are the only policies and procedures which have been approved by FHWA. All local agency staff members or contract personnel who are to perform appraisal, negotiation or relocation functions must be approved by the state in advance of such activities.

When there is federal participation, project agreements with local agencies should include the provisions shown in LA 4175. As set out in Paragraph C, it is the state's responsibility, delegated to the district land acquisition engineer/manager to provide guidance and assistance and to monitor the activities of the local agency through each phase of the right of way acquisition process, working closely with the District Bureau of Local Roads and Streets in coordinating project activities prior to and during the entire right of way acquisition process.

The use of the department's land acquisition policies and Procedures together with the Compliance Review Check lists (Section 4.17-6), and guidance and assistance provided by district land acquisition personnel will assure that local agencies will be in a position to make the required certification to the department as to the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Public Law 91-646), as amended.

4.17-6 COMPLIANCE REVIEW CHECKLISTS

To assist local agencies in acquiring right of way on behalf of the department for a state highway, or on their behalf for a local federally aided highway project, the Compliance Review Checklists should be provided the local agencies at the conceptual stage of each project.

The checklists are designed to guide local agencies in order that they can provide in the order of occurrence, information and documentation as to events, approvals and requirements which must be met throughout the entire right of way acquisition process.

PART A, PROJECT COMPLIANCE REVIEW CHECKLIST (LA 4176A) is to be used by the local agency from the initiation of each project at the design-location approval stage for either a state or a local agency highway project.

PART B-1, PARCEL COMPLIANCE REVIEW CHECKLIST (LA 4176B) is to be used by the local agency (one for each parcel file) from the initiation of appraisal activities for either a state or a local agency highway project in which there are to be federal funds used in any of the project costs.

PART C, PARCEL COMPLIANCE REVIEW CHECKLIST FOR RELOCATION ASSISTANCE ACTIVITIES (LA 4176C) is to be used by the local agency (one for each parcel file) for each parcel of right of way in which there will be a displacement of any individual, family, business or farm operation or the personal property thereof on either a state or a local agency highway project.

4.17-7 COMPLIANCE REVIEWS BY DISTRICT

To assure that local agencies are complying with Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646), as amended, and/or the department's land acquisition policies and procedures, representatives of the district land acquisition, with the assistance of representatives of CBLA, will review the improvement project files using the checklists discussed in Section 4.17-6. A compliance review is a prerequisite to the regional engineer's acceptance of the local agency's certification and recommendation to request authorization to advertise the improvement project for a letting. If the reviewer determines that the project is not in compliance with the aforesaid Act and the department's land acquisition policy and procedures, then such non-compliance must be resolved by the local agency before the project certification can be accepted. If the reviewer determines that the project is in compliance with the aforesaid Act and the department's land acquisition policies and procedures, then the district land acquisition engineer/manager through the regional engineer will forward a memorandum giving a concise report as to the status of the right of way together with a copy of the completed Project Compliance Review Checklist (LA 4176A) to the Central Bureau of Local Roads and Streets.

4.18 ENTRY ON LANDS TO MAKE SURVEYS

The department, or any county, by its officers, agents or employees, after written notice to the owner, may enter upon the lands or water of any person for the purpose of making subsurface soil surveys, preliminary surveys and determinations of the amount and extent of such land, rights or other property required, but subject to responsibility for all damages which shall be occasioned thereby. 605 ILCS 5/4-503. It is important to note that claims for damages must be verified and payment determined by the department. Documentation supporting each

claim (see LA 418), along with proof that the amount being claimed has been determined and approved by the district, must accompany any request for payment submitted to CBLA. A Form of Damage Release can be found as LA 4181 and LA 4182.

Illinois Department of Transportation Order 14-4, dated July 1, 1981, and entitled "Contacting Property Owners Prior To Entering Their Property For Survey Work" is the governing procedure for this activity. If entry under the procedures set forth in the Order is not permitted and legal action is required, the regional engineer should formally request through the Director of Highways that the Office of Chief Counsel review and, if necessary, seek the assignment of the matter to a SAAG. If the matter is assigned to a SAAG, the district will receive a copy of the assignment after which the district should immediately contact and assist the SAAG toward obtaining the necessary rights to enter the property.

4.19 RESERVED FOR FUTURE USE

4.20 ADVERTISING SIGNS

The division does not regard outdoor advertising signs as improvements. They are considered personal property and should be appraised in accordance with Section 2.02-11 and relocated in accordance with Section 6.03-1. (See Section 3.01-5). When the sign owner is not the sign site's fee owner, the sign owner's interest can be obtained using the following. For an on-premise sign, use the Lessee's Release of Interest and Agreement to Vacate Advertising Sign (LA 420A) or Leasee's Release of Lease and Bill of Sale for Advertising Sign or Billboard (LA 420B). For off-premise signs, use the Tenant's Release of Lease (Exhibit 4.08-R)

Except for signs classified as "Legal Non-conforming" signs under the Highway Advertising Control Act of 1971, off-premise signs will be handled under the department's relocation program. The offer for property having a legal off-premise advertising sign will include the contributory value, if any, of the sign site. No offer will include compensation for advertising signs determined to be illegal under the provisions of the Highway Advertising Control Act of 1971. (For information regarding the method of determining compensation to a sign owner, see Section 2.02-11.)

Section 7-101 of the Code of Civil Procedure states in part that "the right to just compensation as provided in this Article applies to the owner or owners of any lawfully erected off-premise outdoor advertising sign that is compelled to be altered or removed… and also applies to the owner or owners of the property on which that sign is erected." In order to satisfy what is commonly referred to as the "Unit Rule", the department's appraisers must appraise property as if all interests in that property were held by one individual or entity. The apportionment of the just compensation between the sign site fee owner and the sign owner is a matter which only the owners of the various property interests can resolve. Legal sign sites may enhance the value of a specific property. These facts are included in the department's determination of just compensation.

If condemnation is necessary to acquire any parcel containing an advertising sign, both land owner and sign owner will be named in the eminent domain action unless the sign owner's interest is somehow satisfied and the removal of the sign owner's interest is specifically authorized by the SAAG assigned to handle the condemnation case.

4.20-1 USE OF RIGHT OF WAY FOR ADVERTISING SIGNS

Statutes state that no person shall place or cause to be placed, any sign or billboard or any advertising of any kind or description upon any state highway or on any other highway outside the corporate limits of any municipality (605 ILCS 5/9-112).

4.21 PROCEDURE FOR REVIEWING STATUS OF ABANDONED RAILROAD RIGHT OF WAY

There have been and continues to be numerous rail mergers and track abandonments in the state that may affect the integrity of access control to existing freeways as well as the state use of abandoned railroad right of way for existing and future state highway facilities.

The Bureau of Railroads monitors all proposed railroad abandonments as part of its ongoing program and is in the best position to advise the division of proposed abandonment proceedings. Therefore, the Bureau of Railroads will notify the appropriate regional engineers as early as possible of all actions to be taken in the abandonment process by the Interstate Commerce Commission on every proposed abandonment in the state.

Upon being so notified, the district shall determine whether or not the department has previously acquired an easement for highway purposes and/or access rights by a recorded instrument of conveyance from the railroad in the area affected by the abandonment proceedings. The district should carefully examine the instruments of conveyance for conditions that may affect the department's use and/or control of access to the highway facility. Generally, where such easements or access rights are a matter of record, nothing further needs to be done.

Where a freeway exists and it is determined that the department has not previously acquired access rights from the railroad, the district should proceed to acquire such access rights as required to be consistent with the department's established access control plan for the facility involved.

Where additional land of the railroad and/or access rights are contemplated as being required for some future improvement, it would be advantageous to acquire such additional land and/or access rights from the railroad rather than from some successor owner. Furthermore, it may be well to acquire the additional land in fee, and to include the fee to any land underlying the recorded easement if it can be acquired for a nominal consideration.

Any acquisition of the railroad's interest should be coordinated with the Central Bureau of Design and Environment to insure that the department is not acquiring the railroad's liabilities. This coordination will also allow the department to avoid conflicts with ongoing litigation.

In proceeding to acquire any additional land or access rights, the district must first determine what title or rights the railroad possesses in its right of way. This is normally accomplished by obtaining a report on title from the title insurance firm holding the contract in the county. If the railroad possesses fee title, then the district may proceed to accomplish its acquisition directly with the railroad.

However, it may be that the railroad merely possesses an easement for railroad purposes, and such rights would be extinguished or revert to the underlying fee owner upon abandonment by the railroad. If this is the case, rather than an acquisition from the railroad, it would be necessary to negotiate with the owners of record for the acquisition of any additional land and/or access rights after such extinguishment or reversion becomes effective.

Where the department merely occupies railroad land, whether it is for a grade separation, grade crossing or a longitudinal use, it is desirable to obtain some instrument evidencing such use and occupation, such as an easement or fee title. Whether or not the railroad would be entitled to any compensation is uncertain since it is assumed the department would have occupied and used the area for some years, either adversely or by way of some form of permission such as a construction agreement, and will continue to do so regardless of whether or not it has such evidence.

These situations may be complicated; therefore, they must be addressed on a case-by-case basis and as early as possible in the proposed abandonment proceedings. The acquisition of any land and/or access rights shall be accomplished in accordance with the established policies and procedures of the Bureau of Land Acquisition.

4.22 ACQUISITION OF RIGHT OF WAY FOR FUTURE USE

The state is without authority to control the rezoning of private property and has limited authority for the acquisition of property for future highway use. The statutes authorize the Department of Transportation to establish the approximate locations and widths of right-of-way for future additions to the state highway system, and subject to the provisions of such law, to acquire such land by purchase or through eminent domain proceedings (605 ILCS 5/4-510). Procedures to carry out this provision of the statute have been established by the Central Bureau of Design and Environment in its manual. A public hearing is required after proper public notice. Subsequent to the approval of a Corridor Protection Plan, owners of land needed for the improvement are served by registered mail of the determination of the approximate location and width after which the owner may not rebuild, alter or add to any improvement or incur development cost or place improvements in, upon or under the land without giving this department 60 days notice. The department has 45 days thereafter to indicate its intention to acquire the land and an additional 120 days to acquire it. Acquisition would then be in accordance with the established procedures in this Manual.

On sections of highway where federal participation is proposed in right of way costs, approval of advance acquisition is requested in accordance with Chapter 1.

Should there be any uneconomic remnants/remainders acquired through this process, it is the negotiator's responsibility to notify the District Property Manager of the acquisition of these uneconomic remnants/remainders so this information can be incorporated into the department's NORWAY inventory (See Section 5.09).

4.23 URBAN RENEWAL PROJECTS

Where there will be an application of Federal-aid highway funds to costs of highway right of way conveyed to the Department of Transportation by a local public agency acting in cooperation with the Department of Housing and Urban Development, then such application shall be coordinated through FHWA.

4.24 THRU 4.29 RESERVED FOR FUTURE USE

4.30 CONDEMNATION

4.30-1 REQUEST FOR CONDEMNATION

If, in the district's opinion, the possibility of reaching agreement by negotiation has been exhausted or if condemnation is necessary for any of the other reasons set forth by statute, such as incapability of consenting property owners, non-residency or name or residence being unknown, a request for condemnation should be forwarded by the district office to CBLA (735 ILCS 5/7-102). Even with the use of quick take procedures, the time between the initial request for condemnation and the actual vesting of title may be at least ninety days or more. Therefore, from the inception of each right of way project the scheduling of acquisition activities should include the time required for full negotiation and the condemnation process. The statutes state that to acquire property by condemnation from a railroad or other public utility, subject to the jurisdiction of the Illinois Commerce Commission, the prior approval of the Commission is required. All districts must submit three copies of the data for condemnation to CBLA for parcels which require Illinois Commerce Commission approval. In any case, sufficient facts and information must be furnished so that the SAAG can prepare the condemnation petition and the motion for immediate vesting of title. In the event that a parcel is settled after it has been submitted for condemnation but prior to the actual filing of the complaint, the district must inform

CBLA with a copy to the Attorney General's Office that the condemnation proceedings will no longer be required. This will enable CBLA, as well as the Office of the Attorney General, to close their files on the matter. The district should also immediately telephone and confirm in writing with the SAAG, if one has been appointed, so that no further legal proceeding or expenses will occur.

The SAAG request and data for condemnation with all of the required attachments thereto, should be submitted to CBLA and should include all of the items in the format described below:

SHORT OFFICE MEMORANDUM (Original copy only - Use BRW 1368)

TO: (Bureau Chief of Land Acquisition)
FROM: (Regional Engineer)
DATE: _____
SUBJECT: Land Acquisition - Condemnation

_____ Route _____
Section _____
_____County
Job No. _____
Parcel No(s). _____
(Name of first party defendant), et al
_____

Attached are two copies of data for condemnation on the subject parcel(s). This project is scheduled to be let on _____.

It is recommended that the parcel(s) be referred to the Office of the Attorney General for acquisition by condemnation proceedings. (If an entity is shown as the owner the district should also include a statement noting that a disclosure of the beneficial owners thereof, under oath, must be obtained in accordance with 50 ILCS 105/3.1.)

If a district prefers representation by a specific SAAG due to the SAAG's familiarity with the project or the location of the project, the district should state, on the first page of the memorandum, **in bold face print**, its request for the SAAG.

ATTACH TO THE AFORESAID MEMORANDUM

- One (1) copy of Negotiator's Report completed to date for CBLA use only.
- Two copies of Data for Condemnation in following format: DATA FOR CONDEMNATION - PARCEL NO(S).

  _____
  _____ Route _____
  Section _____
  Job No. _____
  _____ County

  - o PURPOSE OF ACQUISITION

    (Briefly describe the nature of improvement requiring the parcel(s). The location of parcel(s) and type of taking such as total or partial. The effects on remainder property (ies), i.e., general information about accessibility, severance, buildings, etc. The status of programming for construction, and whether or not quick take procedure is to be utilized.)

- STATUS OF PROJECT ACQUISITIONS

  (Indicate whether acquisition of subject parcel(s) will complete project acquisitions or if additional parcels may have to be condemned to complete the project.)

- FREEWAY STATUS

  (Whether or not it is an established freeway. If so, date(s) of Order Establishing Freeway and Amendments thereto, if any, and whether fully controlled or modified freeway.)

- PARCEL NO (S) INTERESTED PARTIES AND ADDRESSES INTERESTS TO BE ACQUIRED DATE COMPLAINT CAN BE FILED 60 DAY NOTICE DATE

  (Name all interested parties known whether shown on minutes of condemnation or not, including address and interests to be acquired, such as, fee, permanent easement, perpetual easement for highway purposes, temporary easement and access control rights. If temporary easement, indicate either a specific termination date or number of years for which desired. Specify amount and date of the final offer letters.)

- PARCEL NO (S) COUNTER OFFERS REASON FOR CONDEMNATION

  (List counter offers, if any, and under reasons for condemnation specify either - inability to reach agreement on compensation offered, or offer acceptable - unable to obtain clear title to parcel.)

- Attach to the Data for Condemnation two (2) copies each of the following:

  (**NOTE**: For those parcels requiring Illinois Commerce Commission approval, three copies will be required, except in District One.)

  - Legal descriptions of all parcels to be condemned for insertion in the complaint for condemnation. The legal description should adequately describe the property without a plat. (NOTE: If a freeway on existing location, describe the access rights to be acquired including any exceptions. If a modified freeway, include appropriate provision for limited access as set forth in Section 4.07.)

  - Right of way parcel plats, sketches or right of way plans of sufficient detail to identify the property. These plats are to be furnished for the benefit of the SAAG's review and, if requested, to be furnished to the opposing counsel.

  - Report on title (not older than ninety days).

  - A quick take authorization form (See LA 4304) for the parcel. This form will be signed and returned to the appointed SAAG when quick take is authorized by the Attorney General. This form should be completed in a manner that will allow the Attorney General to have sufficient information to make an informed decision on the request. There are five areas of information to be completed:

    - Identify the parcel.

    - Insert fiscal year and strike out the inapplicable word (current or future). Include month and year of anticipated letting.

- Give the number based on the job and completed negotiations.

- Use a number that includes the current references, previous reference and your best estimate on open negotiations.

- Provide name of Assistant Attorney General who will have authority to allow filing of a quick take motion.

4.30-2 APPOINTMENT OF A SPECIAL ASSISTANT ATTORNEY GENERAL

Eminent domain for the Department of Transportation is initiated and prosecuted by the Attorney General through appointed assistants. The Attorney General appoints Special Assistant Attorneys General to act as trial attorneys in the counties where condemnation must be undertaken. These assistants are compensated on an hourly basis by the Department of Transportation for services performed. The Attorney General has prepared and distributed a Condemnation Manual to the Special Assistant Attorneys General.

4.30-3 ASSIGNMENT TO A SPECIAL ASSISTANT ATTORNEY GENERAL

CBLA will forward two copies of the regional engineer's Data for Condemnation, together with all attachments thereto, to the proper office of the Attorney General with the request that the matter be assigned to a SAAG for handling the condemnation of the parcel. The Attorney General will, in turn, forward one copy of all the documents to the appropriate SAAG with the request that condemnation be instituted. Copies of the Attorney General's letter of transmittal will be forwarded to the appropriate district and CBLA.

When the district office receives an informational copy of the letter assigning the condemnation to the SAAG, the district representative should contact the SAAG and offer any assistance from an engineering standpoint in the preparation of the complaint for condemnation. They should also be informed at that time as to whether a motion for immediate vesting of title is necessary in order to meet construction deadlines.

The original complaint for condemnation is executed and forwarded by the SAAG to the regional engineer for checking with two additional copies and then is forwarded with one copy to CBLA for the obtaining of the signatures of the Governor and the Secretary. It is important to note that in checking the complaint the district must verify that the legal description is correct, the interest being sought in the condemnation process is properly recited and the complaint is executed by our SAAG. Having obtained the signatures of the Governor and Secretary, CBLA will forward the original complaint and one copy to the proper office of the Attorney General for final checking and approval of the Attorney General. The Office of the Attorney General will then forward the fully executed original complaint to the SAAG with a copy of the letter of transmittal to the regional engineer and CBLA. The regional engineer is required to contact the SAAG and inform the SAAG of the status of negotiations and whether condemnation is necessary. If a settlement has been reached on a parcel prior to the filing of the complaint for condemnation, it is necessary for record purposes that the office of the Attorney General and CBLA be so informed. Once a complaint for condemnation is filed, any final resolution to that case is the responsibility of the Illinois Attorney General. All negotiations from the time the complaint is filed must be closely coordinated with the Special Assistant in charge of the case. It is the department’s policy that the final resolution of any case filed should be by court order. Exceptions to this policy must be coordinated with CBLA and approved by the appropriate Office of the Attorney General. After filing the complaint for condemnation, a request should be made to the title company for a date down endorsement on title covering the date of filing of the complaint. When received from the Title Company, the report should be delivered to the SAAG for their use in determining whether all necessary parties have been included in the complaint for condemnation.

4.30-4 IMMEDIATE POSSESSION (QUICK TAKE PROCEDURES)

The department is authorized under eminent domain to acquire title prior to the final adjudication and payment of just compensation (735 ILCS 5/7-101 et. seq). The petitioner may file a motion at any time after the complaint to condemn has been filed requesting the immediate vesting of title in the petitioner. However, no Motion for quick take shall be filed without prior approval of the Assistant Attorney General in charge of land acquisition. The form shown as LA 4304 should be completed by the district land acquisition engineer/manager and submitted with the request for condemnation to CBLA so that it will accompany that request to the Attorney General's Office. The court must set the motion for hearing in no less than five days. At the hearing, the court shall determine the propriety of the petitioner's authority to exercise its right to eminent domain over the property sought to be taken. The court's order on this point is a final order and may be appealed within thirty days.

In the event of an appeal, either the trial or reviewing court may stay further proceedings pending the outcome of such appeal. A stay may well prevent the department from obtaining title or possession in less than six months. Under usual circumstances, where either no appeal is taken or no stay ordered, the court goes on to hear such evidence as it deems necessary for a preliminary finding of just compensation. If it sees fit, the court may appoint three appraisers to aid in its decision. Following a preliminary determination of just compensation, the condemner deposits the amount of preliminary just compensation with the County Treasurer and, the court enters an order vesting it with title to the property and fixing a date for possession. See Section 7.02 for warrant requisition procedures.

4.30-5 PREPARATION FOR TRIAL

The district land acquisition engineer/manager and their representatives should cooperate as fully as possible with the SAAG in preparation for the trial. Care should be taken to see that the Special Assistant has the opportunity to interview all of the appraisers who are expected to testify, sufficiently in advance of the trial, so that they may be advised on the legal aspects of their appraisal, such as compensable or noncompensable items and the proper method of valuation. The Special Assistant is the one most qualified to know whether additional appraisers or other witnesses should be retained to assure success at the trial and the district should rely on the attorney's advice in these matters. The district should also cooperate as fully as possible in the preparation of exhibits recommended by the Special Assistant.

4.30-6 COOPERATION DURING TRIAL

The district should stand ready to furnish any personnel requested by the Special Assistant for testimony during trial. This would include personnel from any district bureau when needed for the proper presentation of the state's case.

4.30-7 COURT ORDERS, DISCLOSURES OF BENEFICIAL INTERESTS IN CORPORATIONS, PARTNERSHIPS & TRUSTS AND TITLE INSURANCE POLICY

It is imperative that sufficient copies of the necessary court orders be obtained by the district from the SAAG and prompt attention given to requesting warrants to deposit in order to obtain an order vesting title or to satisfy a final judgment. One certified copy of the order is sufficient for CBLA even though it may cover several parcels. A copy of such order should be forwarded by the SAAG to the proper office of the Attorney General but it is not necessary that these be certified.

If a corporation, partnership, limited liability company or trust is a party to the suit as an owner, a disclosure of the beneficial owners under oath, must be obtained by the SAAG assigned the parcel and be submitted to CBLA by the district as soon as it is obtained, but not later than the submittal of the settlement report covering the stipulated settlement or commencement of trial. Discovery proceedings under the Code of Civil Procedure should be used, if necessary, to obtain this information. The disclosure will be obtained in most cases by the SAAG and it may be desirable for the SAAG to seek and if possible obtain such a disclosure prior to an order vesting title. The disclosure should then accompany the order setting preliminary just compensation. Since acquisitions are settled by stipulation or proceed to trial as much as several years after the vesting title, a second disclosure must be obtained and submitted not later than the submittal of the final judgment order in order to cover the possibility of a later sale of the beneficial interests. If the initial disclosures, or subsequent disclosures at other levels, show interests held by another corporation, partnership, or trust, then further disclosures should be requested until you know the names of individuals owning the interest in the entity involved, or can verify that the ultimate owner is a publicly-traded corporation in which no person is entitled to more than 7 1/2% of the total distributable income.

After a warrant has been deposited and an order vesting title obtained or a final judgment order without there first having been an order vesting title, the title company should be requested to issue its policy of insurance covering the title acquired by condemnation. Careful attention should be given to the examination of the policy to be sure that it insures the state's title against all outstanding interests which might affect the use of the property. Should any discrepancies in title be shown, it is important that immediate action be taken by the SAAG to clear these discrepancies, either by negotiation or through additional condemnation proceedings. See Sections 7.02 and 7.04-3 for warrant requisition or refund procedures.

4.30-8 DOCUMENTATION OF CONDEMNATION AWARDS AFTER SETTLEMENT

The regional engineer has been designated by the Director of Highways as having final authority over right of way matters at the district level and approves such settlements upon the recommendation of the SAAG assigned the parcel for condemnation, normally, after consultation and exchange of views between the SAAG and representatives of the regional engineer. A Settlement Report in the format found in the Attorney General's Condemnation Manual must then be prepared and signed in duplicate by the SAAG and forwarded to the regional engineer for approval. Upon approval of the regional engineer (in duplicate), one original executed copy should be returned to the SAAG requesting that a copy be forwarded to the proper office of the Attorney General. The second original executed copy is to be retained in the district file. No settlement reports need be prepared when the final just compensation is in the same amount as the original approved appraisal amount. A copy of the settlement report must be submitted with a copy of any court orders when a warrant requesting payment is ordered for those parcels acquired through condemnation proceedings.

In settling cases, it is generally more convenient for the department if the matter can be concluded by a single payment constituting full and final just compensation rather than by payment of the judgment amount followed by a separate payment of interest thereon. Therefore, whenever possible, claims for interest should be a consideration in the settlement amount that is negotiated. When negotiating a settlement, the property owner must understand that the agreed-to amount will include their right to all interest.

If a settlement is negotiated after a condemnation complaint is filed, title is obtained by means of a final judgment order because this assures clear title without the necessity for obtaining releases from the holders of liens, mortgages, and other encumbrances, and the recording of the same. It also saves the payment of escrow and recording fees. If for some unusual reason, after the complaint has been filed and title not vested in the state, title is to be acquired by deed, then it is necessary for the SAAG to obtain the permission of the proper office of the Attorney General. A final judgment order is always obtained when a settlement has been reached after the court has vested title in the state under quick take procedures.

4.30-9 DOCUMENTATION OF CONDEMNATION AWARDS AFTER CONTESTED TRIAL

A trial report, in the format found in the Attorney General's Condemnation Manual, must be prepared by the SAAG following each contested trial. This report is required regardless of whether the award is substantially in excess of the reviewing appraiser's determination of value and regardless of whether federal funds are involved. Two signed copies should be furnished to the regional engineer for concurrence and signature. One fully executed copy must thereafter be retained in the district files, and the second fully executed copy returned to the SAAG requesting that a copy be forwarded to the proper office of the Attorney General. The district shall send one copy to CBLA.

Care should be taken to see that the SAAG includes proper and sufficient information relating to the trial, including recommendations as to post trial motions and possible appeal. See Sections 7.02 and 7.04-3 for warrant requisition or refund procedures.

4.30-10 APPEALS

When, in the opinion of the regional engineer and the SAAG, an appeal of the trial court judgment would be in the best interest of the state, as evidenced by the Trial Report, the SAAG should, in addition to the Trial Report, make a request in writing to the proper office of the Attorney General with a copy to the district. CBLA should then be informed of this action so that the matter can be reviewed with the staff of the proper office of the Attorney General and, if warranted after such review, an appeal proceeding will be authorized. The district will be informed of the action to be taken.

4.30-11 INVERSE CONDEMNATION

Illinois statutes provide for the payment of attorney's fees and other expenses to a property owner if the state is required by a court to initiate a condemnation proceeding for the actual physical taking of real property (735 ILCS 5/7-122). A classic example would be constructing an improvement on land without having title thereto or having only a partial title, etc. A property owner in this case could file a Complaint for a Writ of Mandamus to the Circuit Court requesting the Court to order the Secretary to file a Complaint for Condemnation to determine the value of the taking and any damages as a result thereof. If the Court orders the initiation of the proceedings and the owner is successful in obtaining a judgment, then we would also be required to pay the property owner attorney's fees and other expenses.

Fees and other expenses are payable only if the state is required by a court to initiate condemnation proceedings. Consequently, this would not be applicable to normal condemnation proceedings as these are brought by the department on its own volition and not by order of a court.

Federal funds will participate in such condemnation costs on federal-aid projects; however, FHWA normally would like as much advance notice and information concerning the action as may be possible.

The possibility of inverse condemnation is an additional reason for land acquisition personnel to assure that procedures are properly followed and all outstanding interests are acquired or released.

Each district has a person assigned to coordinate those parcels to be acquired by condemnation. In most instances this person is referred to as the District Condemnation Engineer. It is this person's responsibility to see that an Eminent Domain Checklist (LA 43012) is maintained for each file. This checklist will ensure that all the information and documentation for condemned parcels are properly contained in the acquisition file for future reference by department personnel and outside auditors.

When parcels are obtained by condemnation, it is the Condemnation Engineer's responsibility to notify the District Property Manager of the acquisition of any uneconomic remnants/remainders so this information can be incorporated into the department's NORWAY inventory (See Section 5.09).

CHAPTER 4

ACQUISITION POLICIES AND PROCEDURES
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